

Serial No. 09/805,755

REMARKS

Claims 1-15 are pending in the application. In response to the final office action, applicants have amended the specification and claims 1 and 12. Claims 1-15 remain pending for reconsideration.

Applicants wish to thank the Examiner for indicating allowable subject in claims 1-6.

As a preliminary matter, Applicants note that it is unclear whether the office action is final or non-final. The Office Action Summary indicates that the action is non-final, but the office action includes the form paragraph for a final action. As a precaution, Applicants are treating the office action as final. However, Applicants object to the finality of the office action. The office action does not set forth any justification for making the office action final. Applicants note that the office action sets forth an entirely new rejection to claims 1-6. Claims 13 and 15, which were previously indicated as allowable, are now rejected for the first time over newly cited art. Applicants should have an opportunity to respond to these rejections in a non-final office action. Withdrawal of the finality of the present office action is respectfully requested. If any of the rejections are maintained or if new rejections are made, a new office action is respectfully requested. In any event, clarification as to the status of the application is respectfully requested.

Claims 1-6 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Applicants have amended claim 1 to address this rejection.

Applicants thank the Examiner for his careful review of the specification and the claims. Applicants have amended the specification and claim 1 in accordance with the Examiner's suggestion to clarify the claim language. The Examiner was correct in identifying an editorial error in the specification and claim 1. Namely, that claim 1 should recite N-s pulses of different pulse widths combined to provide the 2^N gray-scale tones. Applicant have amended claim 1 and the specification accordingly. Support for the claim amendments is provided by the examples in the specification noted by the Examiner, as well as Figs. 2-5 and their related description. No new matter has been added.

Applicants have also amended the specification to editorially correct the paragraph on page 7, lines 8-10. Specifically, the number of different pulses described is two, not three. Support for the amendment is provided in the paragraph itself, stating (e^{-2}), and Fig. 5, which shows only two different pulse widths. No new matter has been added.

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Applicants submit that the foregoing editorial amendments to the specification and claim 1 place the application in proper form and render claim 1 clear and definite in accordance with § 112, second paragraph.

Claims 7-10 and 12-15 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,417,864 (Jones). Applicants respectfully traverse this rejection for the following reasons.

As a preliminary matter, applicants note that the issue date for Jones is July 9, 2002, which does not pre-date the filing date of the present application, which is March 13, 2001. The rejection under § 102(b), which requires the publication date of the reference to pre-date the filing date of the application by more than one year, is in error and should be withdrawn. Applicants are entitled to a new office action setting forth the proper grounds for rejection.

In any event, the office action appears to misconstrue how Jones might read on the claims. In order to anticipate, the reference must identically disclose each and every claim recitation. Claim 7 recites the first subpixel and the second subpixel having a light output ratio of about 1:1. The office action admits that Jones describes a ratio of 2:1, but asserts that such disclosure identically describes the recited ratio of about 1:1. Applicants submit that the disclosed ratio of double (2:1) does not teach or suggest the recited ratio of about 1:1. Accordingly, claim 7 and its dependent claims 8-10 are not anticipated by and are patentable over Jones.

Claim 8 recites the first pulse and second pulse being of about equal width. The office action relies on TD1 and TD4 for allegedly identically disclosing this recitation. However, TD4 is four times as long as TD1. Applicants submit that the disclosed TD1 and four times longer TD4 do not teach or suggest the recited first pulse and second pulse being of about equal width. Accordingly, claim 8 is separately patentable over Jones.

Claim 9 recites a third pulse being about twice the width of the first pulse. The office action relies on TD1 and TD16 for allegedly identically disclosing this recitation. However, TD16 is sixteen times as long as TD1. Applicants submit that the disclosed TD1 and sixteen times longer TD16 do not teach or suggest the recited third pulse being about twice the width of the first pulse. Accordingly, claim 9 is separately patentable over Jones.

With respect to claim 10, the office action makes an assertion without any reference to what portion of Jones is being relied upon, if any. Clarification is or withdrawal of the rejection is respectfully requested.

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With respect to claim 12, applicants have amended claim 12 to recite the first subpixel and the second subpixel having a light output ratio of about 1:1. Accordingly, claim 12 is patentable for at least the reasons given above in connection with claim 7. Dependent claims 13-15 are likewise patentable.

Claims 14 and 15 are separately patentable for at least the reasons given above in connection with claim 9.

Claim 11 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of U.S. Patent No. 5,124,695 (Green). Applicants respectfully traverse this rejection for the following reasons.

Green, which is relied on for other aspects, fails to make up for the above-noted deficiencies in Jones. Accordingly, the office action fails to establish a prima facie case of obviousness.


Because neither Jones nor Green, individually or in combination, teach or suggest a first subpixel and a second subpixel having a light output ratio of about 1:1, claim 11 is patentable over Jones in view of Green.

In view of the foregoing, favorable reconsideration and withdrawal of the rejections is respectfully requested. Early notification of the same is earnestly solicited. If there are any questions regarding the present application, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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Date


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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at (703) 072-9306 on October 10, 2004.

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